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EXAMINER

LUU, TUYET PHUONG PHAM

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/055,541

Applicant(s)

DENNISON ET AL.

Examiner

Teri P. Luu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-6, 9-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) 7, 8, 16, 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claim 20 is objected to because of the following informalities: claim 20 depends from claim 18; however the recitation "the rigid plate" lacks positive antecedent basis. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9, 12, 15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,014,784 to Taylor et al.

Taylor et al. discloses an apparatus comprising a semicompressible pad (18) enclosing a plurality of cross-wise channels (10), a plurality of flexible transfer tubes (12, 13, 14) and a pump distributor (32, 34, 36, etc.).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of U.S. Patent No. 6,175,980 to Gaither.

Taylor discloses the claimed invention except for an anti-slide device comprising a plurality of straps. Gaither discloses a cushion comprising a plurality of straps. The straps

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serve to strap the cushion to a frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Taylor with a plurality of straps so as to securely hold the apparatus to a frame and to securely hold the patient to the pad.

6. Claims 4, 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of U.S. Patent No. 6,269,505 to Wilkinson.

Taylor fails to explicitly disclose the material of the semi-compressible pad. Wilkinson discloses an apparatus for supporting a human body comprising a semi-compressible pad. The pad (20) "can be composed of any resilient material, for example, foam, down feathers, an inflatable air cushion, etc." Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the semi-compressible pad from a non-crumbly semi-compressible material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

As concerns claim 13, Taylor fails to disclose the apparatus dimensioned to support an entire human body. Wilkenson discloses a cushioning device for a body support such as a mattress, seat, sofa, or the like. Thus, it would have been within the knowledge of one skilled in the art to modify Taylor so as to be dimensioned to support an entire human body so as to provide variable pressure point throughout the human body.

7. Claims 6 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of U.S. Patent No. 6,502,263 to Rowley et al.

Taylor discloses the claimed invention except for the pad including a water proof cover. Rowley et al. discloses a cushion comprising a moisture impermeable cover. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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provide the apparatus of Taylor with a waterproof cover so as to protect the cushion from moisture.

In reference to claim 14, Taylor fails to disclose the pad including an upper surface being recessed at one end to accommodate a patient's buttocks and being raised at the other end to elevate a patient's thighs. Rowley et al. discloses a cushion having a depression (16) at one end and being raised at the other end to elevate a patient's thighs. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cushion of Taylor with a depression at one end and to elevate the other end so as to cradle the patient's buttocks and elevate the thighs, as taught by Rowley et al.

8. Claims 10 and 11 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor.

Taylor discloses the channels having a cross-sectional shape that is round. However, Taylor fails to disclose the channels also having a cross-sectional shape that is elliptical or cup-shaped. However, it would have been obvious to one having ordinary skill in the art to provide the channels with a cross-sectional shape of either elliptical or cup-shaped, since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

9. Claims 19 and 20 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of U.S. Patent No. 5,797,155 to Maier et al.

Taylor discloses the claimed invention except for a rigid plate underneath the pad. Maier et al. discloses a cushion comprising a rigid plate underneath the pad. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pad of Taylor with a rigid plate so as to reinforce the bottom to provide rigidity to the pad.

***Allowable Subject Matter***

10. Claims 7, 8, 16 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Teri Pham Luu** whose telephone number is **(703) 305-7421**. The examiner can be best reached Monday-Friday from 6:30 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Heather Shackelford**, can be reached at **(703) 308-2978**.

Submission of your response by facsimile transmission is encouraged. Technology Center 3600's facsimile number is **(703) 872-9326 (Before Final)**, **(703) 872-9327 (After Finals)** and **(703) 872-9325 (Customer Service)**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the  
Patent and Trademark Office (Fax No. (703) 305-3597) on (Date) \_\_\_\_\_

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\_\_\_\_\_  
(Typed or printed name of person signing this certificate)

\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be directed to **heather.shackelford@uspto.gov**.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed expressed waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist at **(703) 308-2168**.

tpl  
May 19, 2003



**TERI PHAM LUU**  
**PRIMARY EXAMINER**